

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN AMBROSINI,

Plaintiff,

v.

UNUM LIFE INSURANCE COMPANY
OF AMERICA,

Defendant.

Case No. 1:24-cv-00425-JLT-CDB

SCHEDULING ORDER (Fed. R. Civ. P. 16)

Rule 26 Disclosures: August 7, 2024

Pleading Amendment: August 7, 2024

Administrative Record Filing Deadline: July 11,
2025

Discovery Motion Deadline: May 9, 2025

Cross-Motions for Judgment:
Filing: August 8, 2025
Response: August 29, 2025

Oral Argument: September 16, 2025

Plaintiff Kevin Ambrosini initiated this action with the filing a complaint on April 9, 2024. Plaintiff raises a claim for disability benefits under an employee benefit plan regulated and governed under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1101, *et seq.* (“ERISA”). Plaintiff seeks benefits pursuant to an employee benefit plan sponsored by his employer, Penske Truck Leasing Company, LP, which is insured/administered in relevant part by Defendant UNUM Life Insurance Company of America (“UNUM”).

1 The parties convened via Zoom videoconference for a scheduling conference before Magistrate
2 Judge Christopher D. Baker on July 9, 2024. Christian Garris appeared on behalf of Plaintiff. Robert
3 Hess appeared on behalf of Defendant. During the conference, the parties expressed their anticipation
4 that this matter will be resolved by way of cross-motions for judgment under Fed. R. Civ. P. 52 and
5 renewed their request that the discovery process be streamlined and that neither a pretrial conference
6 nor trial date be set, pending resolution of the anticipated dispositive motions.

7 **I. Magistrate Judge Consent**

8 Currently there is no joint consent to Magistrate Judge jurisdiction.

9 **Notice of Congested Docket and Court Policy of Trailing**

10 Due to the District Judges' heavy caseload, the adopted policy of the Fresno Division of the
11 Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set before a
12 District Judge, the parties will trail indefinitely behind any higher priority criminal or older civil case
13 set on the same date until a courtroom becomes available. The trial date will not be reset.

14 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
15 of the District Judges who carry the heaviest caseloads in the nation and who must prioritize criminal
16 and older civil cases over more recently filed civil cases. A Magistrate Judge may conduct trials,
17 including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73,
18 and Local Rule 305. Any appeal from a judgment entered by a Magistrate Judge is taken directly to
19 the United States Court of Appeal for the Ninth Circuit.

20 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to
21 conduct all further proceedings, including trial, and to file a consent/decline form (provided by the
22 Court at the inception of this case) indicating whether they will consent to the jurisdiction of the
23 Magistrate Judge.

24 **II. Pleading Amendment**

25 Any motions to amend the pleadings, including to add or substitute parties (including Doe
26 defendants) and/or allegations and claims, must be filed by **August 7, 2024**. Filing a motion and/or
27 stipulation requesting leave to amend the pleadings does not reflect on the propriety of the amendment
28 or imply good cause to modify the existing schedule, if necessary. All proposed amendments must

(A) be supported by good cause pursuant to Fed. R. Civ. P. 16(b) if the amendment requires any modification to the existing schedule, *see Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992), and (B) establish, under Fed. R. Civ. P. 15(a), that such an amendment is not (1) prejudicial to the opposing party, (2) the product of undue delay, (3) proposed in bad faith, or (4) futile, *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

III. Discovery Plan and Cut-Off Date

The parties shall exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1) by no later than **August 7, 2024**. Defendant shall produce the administrative record and applicable plan documents by no later than **July 11, 2025**. All motions concerning discovery disputes or otherwise related to the administrative record shall be filed by no later than **May 9, 2025**.

IV. Pre-Trial Motion Schedule / Informal Discovery Dispute Conferences

The parties shall file their cross-motions for judgment under Fed. R. Civ. P. 52 by no later than **August 8, 2025**. The parties shall file their responsive/opposition briefs by no later than **August 29, 2025**.

No motion to amend or stipulation to amend the case schedule will be entertained unless it is filed at least three days before the first deadline the parties wish to extend. In scheduling such motions, absent consent to Magistrate Judge jurisdiction, counsel SHALL consult the assigned District Judge's general information and calendar accordingly and SHALL comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.

No written discovery motions shall be filed without the prior approval of Judge Baker. A party with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by agreement the issues in dispute. If that good faith effort is unsuccessful, prior to making any filing, the requesting party promptly shall seek a conference with all involved parties and Judge Baker. To schedule this conference, the parties should contact the Courtroom Deputy Clerk, Susan Hall, at (661) 326-6620 or via email at SHall@caed.uscourts.gov. At least two days before the conference, counsel shall file a joint, informal letter brief detailing each party's position. Each party's narrative shall not exceed five pages, excluding exhibits, and shall cite relevant authority in support of the party's position. At the commencement of the conference, if the parties jointly agree to Judge

1 Baker's consideration and resolution of the discovery disputes outside the formal Local Rule 251
2 procedures, the Court will entertain arguments by the parties and issue a written ruling. If the parties
3 do not jointly agree to the informal discovery dispute resolution procedures set forth herein, the
4 requesting party may then seek relief through motion to compel. Counsel must comply with Local
5 Rule 251 with respect to discovery disputes and certify their compliance in any discovery motion.

6 **V. Motions for Summary Judgment or Summary Adjudication**

7 At least 21 days before filing a motion for summary judgment or motion for summary
8 adjudication, the parties SHALL meet, in person or by telephone, to confer about the issues to be
9 raised in the motion.

10 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
11 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
12 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
13 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
14 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

15 The moving party SHALL initiate the meeting and SHALL provide a complete, proposed
16 statement of undisputed facts **at least five days before** the conference. The finalized joint statement
17 of undisputed facts SHALL include all facts that the parties agree, for purposes of the motion, may be
18 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
19 statement of undisputed facts.

20 In the notice of motion, the moving party SHALL certify that the parties have met and
21 conferred as ordered above, or set forth a statement of good cause for the failure to meet and confer.
22 Failure to comply may result in the motion being stricken.

23 **VI. Hearing Date**

24 The parties agree that a trial on this case should not occur. Instead, in lieu of a trial, the parties
25 shall submit oral arguments in support of their cross-motions for judgment at a hearing currently set
26 for **September 16, 2025**, at 9:00 a.m. The hearing shall take place at the United States District
27 Courthouse, 2500 Tulare Street, in Fresno, California, before District Judge Jennifer L. Thurston.
28

1 **VII. Settlement Conference**

2 The parties SHALL meet and confer and notify the undersigned by stipulated filing by no later
3 than **March 7, 2025**, whether they wish to convene for a Settlement Conference. In the event the
4 parties request a Settlement Conference, unless otherwise permitted in advance by the Court, the
5 attorneys who will try the case shall appear at the settlement conference with the parties and the
6 person or persons having full authority to negotiate and settle the case on any terms¹ at the conference.

7 Consideration of settlement is a serious matter that requires preparation prior to the settlement
8 conference. Set forth below are the procedures the Court will employ, absent good cause, in
9 conducting the conference.

10 At least 14 days before the settlement conference, Plaintiff SHALL submit to Defendant via
11 fax or e-mail, a written itemization of damages and a meaningful² settlement demand which includes a
12 brief explanation of why such a settlement is appropriate. Thereafter, no later than seven days before
13 the settlement conference, Defendant SHALL respond, via fax or e-mail, with an acceptance of the
14 offer or with a meaningful counteroffer which includes a brief explanation of why such a settlement is
15 appropriate.

16 If settlement is not achieved, each party SHALL attach copies of their settlement offers to their
17 Confidential Settlement Conference Statement, as described below. Copies of these documents shall
18 not be filed on the court docket.

19 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

20 At least two court days prior to the settlement conference, the parties shall submit, directly to
21 Judge Baker's chambers by e-mail to CDBOrders@caed.uscourts.gov, a Confidential Settlement

22 ¹ Insurance carriers, business organizations, and governmental bodies or agencies whose
23 settlement agreements are subject to approval by legislative bodies, executive committees, boards of
24 directors or the like shall be represented by a person or persons who occupy high executive positions in
25 the party organization and who will be directly involved in the process of approval of any settlement
offers or agreements. To the extent possible, the representative shall have authority, if he or she deems
it appropriate, to settle the action on terms consistent with the opposing party's most recent demand.

26 ² "Meaningful" means the offer is reasonably calculated to settle the case on terms acceptable to
27 the offering party. "Meaningful" does not include an offer which the offering party knows will not be
28 acceptable to the other party. If, however, the offering party is only willing to offer a settlement which
it knows the other party will not accept, this should trigger a recognition the case is not in a settlement
posture and the parties should confer about continuing or vacating the settlement conference via
stipulation.

1 Conference Statement. The statement should not be filed with the Clerk of the Court nor served on
2 any other party, although the parties may file a Notice of Lodging of Settlement Conference
3 Statement. Each statement shall be clearly marked "confidential" with the date and time of the
4 settlement conference indicated prominently thereon.

5 The Confidential Settlement Conference Statement shall include the following:

6 A. A brief statement of the facts of the case.

7 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
8 which the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on the
9 claims and defenses; and a description of the major issues in dispute.

10 C. A summary of the proceedings to date.

11 D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.

12 E. The relief sought.

13 F. The party's position on settlement, including present demands and offers and a history
14 of past settlement discussions, offers and demands.

15 **IX. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten**
16 **Trial**

17 None at this time.

18 **X. Related Matters Pending**

19 There are no pending related matters.

20 **XI. Compliance with Federal Procedure**

21 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
22 and the Local Rules of the Eastern District of California, and to keep abreast of any amendments
23 thereto. The Court requires compliance with these Rules to efficiently handle its increasing case load.
24

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XII. Effect of this Order

The foregoing order represents the best estimate of the court and counsel as to the agenda most suitable to dispose of this case. If the parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by subsequent status conference.

The dates set in this Order are considered to be firm and will not be modified absent a showing of good cause even if the request to modify is made by stipulation. Stipulations extending the deadlines contained herein will not be considered unless they are accompanied by affidavits or declarations, and where appropriate attached exhibits, which establish good cause for granting the relief requested.

Failure to comply with this order may result in the imposition of sanctions.

IT IS SO ORDERED.

Dated: **July 10, 2024**


UNITED STATES MAGISTRATE JUDGE